

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Eastern District of Missouri on the following  Patents or  Trademarks:

DOCKET NO 4:08cv00137CEJ	DATE FILED 7/29/2008	U.S. DISTRICT COURT Eastern District of Missouri
PLAINTIFF  Monsanto Company Monsanto Technology LLC		DEFENDANT  Roger Woods
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 5,352,605	10/4/1994	Monsanto Company
2 US RE 39,247 E	8/22/2006	Monsanto Technology LLC
3		
4		
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY  <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT  <i>See attachment</i>
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CLERK  <i>James Woodward</i>	(BY) DEPUTY CLERK  <i>Kara Schrele</i>	DATE  <i>6/14/09</i>
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Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MONSANTO COMPANY and )  
MONSANTO TECHNOLOGY LLC, )  
Plaintiffs, ) Cause No.: 4:08-CV-00137 CEJ  
v. )  
ROGER WOODS, )  
Defendant. )

FINAL CONSENT INJUNCTION AND JUDGMENT

I. Parties & Definitions

- A. Plaintiff Monsanto Company is a company organized and existing under the laws of the State of Delaware with its principal place of business in St. Louis, Missouri. Monsanto is authorized to do and is doing business in Missouri and in this judicial district.
- B. Plaintiff Monsanto Technology, LLC is a company organized and existing under the laws of the State of Delaware with its principal place of business in St. Louis, Missouri. Monsanto Technology, LLC is authorized to do and is doing business in Missouri and in this judicial district. Monsanto Company and Monsanto Technology, LLC are hereinafter referred to collectively as "Monsanto."
- C. Defendant Roger Woods (hereinafter "Defendant") is a resident and domiciliary of Pike County, Illinois. Defendant is engaged in a farming business that involves the planting of crops, including soybeans.
- D. "Person" means any natural individual or any entity, and, without limiting the generality of the foregoing, includes natural persons, associations, joint ventures, limited partnerships, partnerships, corporations, companies, trusts, and public agencies.

II. Stipulated Findings

- A. Subject matter jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1331, in that one or more of Monsanto's claims arise under the laws of the United States, as well as 28 U.S.C. § 1338, granting district courts original jurisdiction over any civil action regarding patents. Additionally, this Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1337 over Monsanto's non-federal question claims, such that they form part of the same case or controversy.

SLC-3223976-1

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JAMES G. WOODWARD, CLERK  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
BY Kara Sheel  
DEPUTY CLERK

- B. Venue is proper in this judicial district insomuch as the parties have agreed and consented to personal jurisdiction and venue in this judicial district and/or designated this Honorable Court as the forum and venue for all disputes arising under the licensing agreement executed by Defendant.
- C. Monsanto is in the business of developing, manufacturing, licensing and selling agricultural biotechnology, agricultural chemicals and other agricultural products. After the investment of substantial time, expense and expertise, Monsanto developed new plant biotechnologies that involve the transfer into crop seed of genes that cause seed to be resistant to glyphosate-based herbicides such as Roundup® branded herbicides (the "Roundup Ready® trait").
- D. Monsanto's Roundup Ready® trait has been utilized in several agricultural crops, including soybeans, to render them resistant to applications of glyphosate, a herbicide. These genetically modified crop seeds are marketed by Monsanto and other seed companies as "Roundup Ready®" crop seed. Roundup® and Roundup Ready® are registered trademarks of Monsanto Technology, LLC.
- E. Monsanto's Roundup Ready® seed biotechnology is protected under patents issued by the United States Patent Office, including U.S. Patent Number 5,352,605 (the "'605 patent") and U.S. Patent Number US RE39,247 E (the "'247 patent"). The aforementioned patents were issued to and/or Monsanto was the exclusive licensee from the owner and was authorized to enforce the rights relating thereto, including seeking monetary relief and/or injunctive relief for the infringement thereof, prior to some or all of the events giving rise to this action.
- F. Monsanto placed the required statutory notice that its Roundup Ready® biotechnology was patented on the labeling of all bags of seed containing Roundup Ready® seed. In particular, each bag of Roundup Ready® soybean seed is marked with notice of the '605 patent.
- G. Under the terms of Monsanto's system through which its patented Roundup Ready® biotechnology is licensed, a purchaser is only authorized to use the seed for planting a commercial crop in a single growing season, and is prohibited from saving any of the crop produced from the purchased seed for planting or selling saved seed from the crop produced from the purchased seed, or otherwise supplying or transferring any seed produced from the purchased seed to anyone for planting.
- H. During the 2007 growing season, Defendant planted no less than 150 units<sup>1</sup> of "saved," second generation Roundup Ready® soybean seed, that is, soybean seed which was produced from the Roundup Ready® soybean seed which had been planted in the 2006 crop year (or earlier). Prior to planting the saved, second generation Roundup Ready® soybean seed, the saved, second generation Roundup Ready® soybean seed was cleaned by Camp Point Seed Co.

<sup>1</sup> A "unit" is the standard 50 lb. bag of soybean seed.

(Camp Point, Illinois). Subsequent to the planting and germination of the saved, second generation Roundup Ready® soybean seed in 2007, the fields planted with the saved Roundup Ready® soybeans were sprayed with a glyphosate-based herbicide "over the top," that is, there was no effort being made by those conducting the spraying to ensure that the glyphosate-based herbicide did not come into contact with the newly germinated and emergent soybean plants.

- I. During the 2006 growing season, Defendant knowingly planted no less than 80 units of "saved," second generation Roundup Ready® soybean seed, that is, soybean seed which was produced from the Roundup Ready® soybean seed which had been planted in the 2005 crop year (or earlier). Prior to planting the saved, second generation Roundup Ready® soybean seed, the saved, second generation Roundup Ready® soybean seed was cleaned by Camp Point Seed Co. (Camp Point, Illinois). Subsequent to the planting and germination of the saved, second generation Roundup Ready® soybean seed in 2006, the fields planted with the saved Roundup Ready® soybeans were sprayed with a glyphosate-based herbicide "over the top," that is, there was no effort being made by those conducting the spraying to ensure that the glyphosate-based herbicide did not come into contact with the newly germinated and emergent soybean plants.
- J. During the 2005 growing season, Defendant knowingly planted no less than 26 units of "saved," second generation Roundup Ready® soybean seed, that is, soybean seed which was produced from the Roundup Ready® soybean seed which had been planted in the 2004 crop year (or earlier). Prior to planting the saved, second generation Roundup Ready® soybean seed, the saved, second generation Roundup Ready® soybean seed was cleaned by Camp Point Seed Co. (Camp Point, Illinois). Subsequent to the planting and germination of the saved, second generation Roundup Ready® soybean seed in 2005, the fields planted with the saved Roundup Ready® soybeans were sprayed with a glyphosate-based herbicide "over the top," that is, there was no effort being made by those conducting the spraying to ensure that the glyphosate-based herbicide did not come into contact with the newly germinated and emergent soybean plants.
- K. Defendant acknowledges that he was not authorized to save and replant second generation soybean seed containing Monsanto's patented biotechnology and that by virtue of the aforementioned acts, he infringed one or more claims of the '605 patent and the '247 patent.

### III. Permanent Injunction

- A. It is hereby ordered, adjudged and decreed that Defendant, individually and/or by, through or with any entity, or any agent, servant, employee, and each person in active concert or participation with Defendant who receives actual notice of this Judgment by personal service or otherwise, are permanently enjoined from:
  - I. Making, using, or planting any soybean seed containing Monsanto's patented Roundup Ready® biotechnologies unless Defendant executes

and complies with the terms and conditions of the Monsanto Technology Stewardship Agreement attached hereto as Exhibit A, and any subsequent or modified terms of any limited license which Monsanto offers to users/purchasers of seed containing Monsanto's patented biotechnology; and

2. Offering to sell, selling, or transferring any soybean seed containing Monsanto's patented Roundup Ready® biotechnology to any person for planting, replanting, seed production, crop breeding, research, reverse engineering, generation of herbicide registration data, analysis of genetic composition, or any purpose other than sale as a commodity.
  3. Infringing Monsanto's seed trait patents including, but not limited to, U.S. Patent No. 5,352,605 and U.S. Patent Number US RE39,247 E.
- B. It is hereby also further ordered, adjudged and decreed that Defendant shall deliver a copy of Section III of this Final Consent Injunction and Judgment, and advise of such terms, to:
1. any person whom Defendant employs, retains, or otherwise utilizes to apply for, purchase, acquire, sell, or transfer soybean seed; and
  2. any person who employs, retains, or otherwise utilizes Defendant to apply for, purchase, acquire, sell, or transfer soybean seed.

#### IV. Mandates Through December 31, 2014

- A. It is hereby ordered, adjudged and decreed that Defendant shall, at the time of his execution of this Final Consent Injunction Judgment, execute the attached Authorizations (attached hereto as Exhibits B-1 and B-2) to allow Monsanto, its counsel, or their respective representatives or agents, to inspect and copy Defendant's Farm Service Agency (formerly known as the Agricultural Stabilization and Conservation Service) farm records and acreage reports, crop production input records, records of the Risk Management Agency, records of the Commodity Credit Corporation and records of sales of soybean seed as a commodity for all years listed therein, inclusive through 2014.
- B. It is hereby ordered, adjudged and decreed that Defendant shall, upon written request from Monsanto or its representatives,
- I. make all of his soybean seed purchase receipts and records, agricultural chemical purchase receipts and records and other agricultural input receipts and records relating to his soybean farming operations, if any, for the crop years 2009 through 2014, inclusive, available to Monsanto for inspection and copying within seventy-two (72) hours of the receipt of written notice;

2. show Monsanto or its representatives the location of all soybeans and cotton planted, harvested, and/or stored by or on behalf of Defendant, during the time period of January 1, 2009 through December 31, 2014, if any;
3. allow and accompany Monsanto or its representatives into:
  - a. all land planted, farmed and/or controlled by or on behalf of Defendant, including any acreage in which Defendant has any interest in whole or in part, if any, and/or
  - b. all storage facilities (bins, barns, wagons, bags, warehouses, trailers, etc.) where stored soybean seed is within the care, custody or control of Defendant in whole or in part, if any,

so that Monsanto or its representative can inspect and determine the number of acres of soybeans planted in the 2009 through 2014 planting seasons, the amount of soybeans and/or cotton stored, and to obtain samples from fields and storage facilities for testing from the 2009 through the 2014 growing seasons.

#### **V. Monetary Provisions**

- A. By consent of the parties, judgment is entered against Defendant Roger Woods in the total amount of Twenty Two Thousand and 00/100 Dollars (\$22,000.00), each party to bear its own costs and attorneys fees.
- B. Defendant does not claim, but nevertheless relinquishes any and all rights, benefits, and claims, if any, arising out of any Technology Value Package<sup>SM</sup>, TVP<sup>SM</sup>, or Roundup Rewards<sup>SM</sup> pertaining to purchases, crops, or conduct occurring prior to the execution of this Final Consent Injunction Judgment to the extent any such rights, benefits or claims exist.

#### **VI. Other Provisions**

- A. Having read and understood the terms and conditions of this Final Consent Injunction Judgment, the parties agree that the Final Consent Injunction Judgment constitutes a fair and adequate resolution of all issues and claims involved in this action between Monsanto and Defendant. The parties have by the signatures herein below recommended this Court issue this Final Consent Injunction and Judgment.
- B. Jurisdiction is retained for the purpose of enabling any party to this Final Consent Injunction and Judgment to apply to the Court at any time for the enforcement of the provisions herein and/or to remedy a violation of the Final Consent Injunction

<sup>3</sup> Technology Value Package<sup>SM</sup>, TVP<sup>SM</sup>, and Roundup Rewards<sup>SM</sup> are service marks of Monsanto Technology LLC.

Judgment. This Final Consent Injunction and Judgment shall be governed by the laws of the State of Illinois and the United States.

- C. The failure, or alleged failure, to seek remedies as the result of violation of the Final Consent Injunction and Judgment shall not constitute a waiver of any other violation.
- D. If any provision or provisions of this Final Consent Injunction and Judgment is or are declared invalid by a court of competent jurisdiction, the remainder of this Final Consent Injunction and Judgment shall remain in full force and effect and shall not be affected by such declaration. If any provision or provisions of this Final Consent Injunction and Judgment is or are declared invalid as being overbroad by a court of competent jurisdiction, the court should modify the provision or provisions so that they are as broad as possible without being so broad as to be invalid.
- E. The Parties acknowledge that they have read this Final Consent Injunction Judgment and that they have discussed its terms and conditions with an attorney of their choice. The Parties further declare and represent that in executing this Final Consent Injunction and Judgment, they have relied wholly upon their own judgment, belief and knowledge of the nature, extent, and effect of this Final Consent Injunction Judgment, without reliance upon any statement, promise or representation by any party.
- F. By his signature below, Defendant waives the right to trial and/or appeal of this matter and agrees to, and acknowledges the terms of, this Final Consent Injunction and Judgment and waives any requirement of the personal service of this Final Consent Injunction and Judgment.

SO ORDERED:

  
UNITED STATES DISTRICT COURT JUDGE

Dated this 4<sup>th</sup> day of June, 2009.